

3:24-CV-00727-AGT

*Smith v. Substack, Inc.*

**Letter to Judge**

From:

Oliver D. Smith

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To:

Magistrate Judge Alex G. Tse

San Francisco Courthouse, Courtroom A – 15th Floor

450 Golden Gate Avenue, San Francisco, CA 94102

11/3/2024

I am the plaintiff in *Smith v Substack Inc.* I am writing this letter because I did not know who else to write to and perhaps you can advise. My complaint was filed on 2/7/2024 and a few days later I received an order setting initial case management conference and ADR deadlines. I immediately emailed the defendant to alert them to this order and to notify them I would be sending them a copy; two copies of a waiver of the service of summons form and a request to waive a service of a summons form, as well as the printout of the brochure ‘Consenting to a Magistrate Judge’s Jurisdiction’ which I was told to serve on the defendant in the order. I have also sent copies of these forms by post to the defendant. A month passed and I have not received a response by the defendant by either email/post. I therefore last week hired a process server to hand deliver the documents to the defendant (who has been ignoring my emails and letters etc).

My process server I hired from ABC Legal Team, however, has been denied entry to Substack’s headquarters’ by a security officer. On 8/3/2024 my process server attempted delivery by going to the headquarters’ (111 Sutter Street, Floor 7, San Francisco, CA 94104-4547) but was denied

entry and told by security he must have an appointment and told him to phone Substack. Today, we therefore we tried to organise an appointment by phone, but the phone number provided by the security guard and what is the number mentioned on Substack's website is disconnected. My server then went to ask security about this difficulty but was thrown out the building. It is clear to me and my process server, who have described Substack Inc as "bad service" that they are an unwilling recipient and are evading being served. I therefore have no way of serving the order (including case schedule) on the defendant who has continued to ignore all of my emails. I applied to the court to Proceed in forma pauperis because I am disabled, unemployed and have very few savings (note I am not a US citizen.) I had to crowdfund for 3 weeks to cover the process server fee which was \$75 (about £60 in my currency). I am not sure at this point how to proceed because I cannot communicate with the defendant who is ignoring me by email, post, and phone to the extent, they have now evaded personal delivery by denying my process server into the Substack headquarters'. I can of course verify this since I have written testimony from the process server as well as emails I sent and proof of post including recorded delivery.

Given the complications with service, it is clear to me Substack does not want to reach an out of court settlement or mediation. Quite frankly, the way they have treated me so far and wasted my process server money, I do not want to waste further money or time given their misconduct – I just want to sue them in court which brings us to the case management. I presume if my IFP application is approved, a US Marshal can serve the complaint on Substack. The order on case schedule gives me until 4/19/2024 to file an ADR certification but it is very unlikely since a month has passed and I cannot serve the defendant because they are an unwilling recipient. My request is if you can provide an answer or solution. I do not live in the US and have limited knowledge of the US legal system. If you could explain how this case may proceed despite the defendant is refusing service, I would be very grateful.

Oliver Dean Smith

11/3/2024

